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TELEPHONE: 803-254-0707
FACSIMILE: 803-254-5609

February 24, 2006

VIA FACSIMILE AND FEDERAL EXPRESS MAIL

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

| | | |
|-----|----------------------------|---|
| Re: | Appeal: | USAC's Decision dated December 28, 2005 |
| | Applicant Name: | Fairfield County School District |
| | Billed Entity Number: | 127143 |
| | Form 471 Application: | 172053 |
| | Funding Request Number(s): | 35073 |
| | Your Correspondence Dated: | December 28, 2005 |
| | CC Docket No.: | 02-6 & 96-45 |

Dear Secretary:

We have been retained by Fairfield County School District to file an appeal in the aforementioned matter. Enclosed please find a copy of the appeal.

If there are any questions regarding this matter, please do not hesitate to contact me.
Thank you for your assistance.

Sincerely,


Darryl C. Caldwell

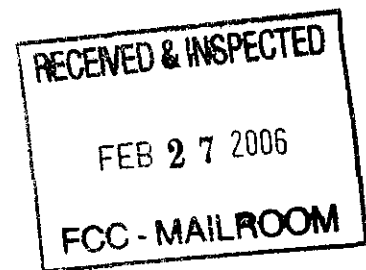
cc: Dr. Clarence Willie, Superintendent
Charles J. Boykin, Esq.

Enclosure

No. of Copies Made
List ABOVE

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**Before the
Federal Communication Commission
Washington, DC 20554**



| | | | |
|------------------------------------|---|---------------|--------------|
| In the Matter of |) | | |
| |) | | |
| Request for Review of the |) | CC Docket No. | 02-6 & 96-45 |
| |) | | |
| Decision of the |) | | |
| Universal Service Administrator by |) | | |
| |) | | |
| Fairfield County School District |) | | |
| Fairfield, South Carolina |) | | |
| |) | | |

APPEAL

I. INTRODUCTION

1. In this appeal, the Fairfield County School District (hereinafter, referred to as the "District") is appealing a decision rendered by the Universal Service Administrative Company (hereinafter, referred to as the "USAC") concerning the recovery of alleged improper disbursement of funds required by Application Number 172053 for funding year July 1, 2000 – June 30, 2001, for which the District was required to reimburse the USAC \$268,667.65.

II. GROUND FOR APPEAL

2. The District appeals USAC's decision to continue seeking recovery of alleged improper disbursement of funds pursuant to an improper disbursement fund letter and the demand letter on the grounds that the Federal Communication Commission's Fifth Report and Order, Docket Number 02-6, (hereinafter, referred to as the "FCC Fifth Report and Order") should not be applied retrospectively to the District's funding issue based on the plain meaning of the language of Paragraph 24 of the Report.

3. The District further appeals on the grounds that payment of the District's non-discounted amount which was tendered once the vendor submitted a correct invoice, meets the certification the District signed pursuant to FCC Form 471. 47 C.F. R. § 54.504 (c) (1) (iii).

4. The District also appeals on the grounds that the retroactive application of Paragraph 24 of the FCC's Fifth Report and Order violates the "Contract Clause" of the United States Constitution which extends to the Federal Government through the Fifth Amendment Due Process Clause.

5. In the alternative, the District requests that if the FCC determines that an improper disbursement of funds occurred, the District should be granted a waiver on the grounds that the

District requested the United States Department of Justice (hereinafter, referred to as the "DOJ") to investigate the District's E-rate program which demonstrates that the District did not knowingly fail to follow the FCC's regulations governing disbursement of funds.

III. BACKGROUND

6. In February 2003, the School and Libraries Division (hereinafter, referred to as the "SLD") of USAC conducted an audit of the Fairfield County School District's January 1, 2000-June 30, 2001 funding year. During this audit, SLD discovered that the District had not completely paid its pre-discounted amount required by Application Number 172053. The District's pre-discounted amount was \$122,522.68. However, the District can only provide documentation that it paid the vendor, IKON (hereinafter, referred to as "vendor") \$57,597.60. The District's representative conveyed, during the audit, that the vendor had not provided a final invoice to the District due to the disintegration of the vendor's office, and the vendor's inability to issue the District a correct final bill.

7. On July 11, 2003, the vendor submitted an invoice to the District for \$64,925.08, the District's pre-discounted amount.

8. On July 18, 2003, the District requested DOJ to conduct an investigation into the District's E-rate Program.

9. On June 8, 2004, based on the February 2003 audit, USAC notified the District of its determination that funds disbursed in Application Number 172053 were erroneously distributed by the District and that SLD would seek the recovery of total funds disbursed on Application Number 172053 in the amount of \$341,565.49. (See Exhibit A)

10. On August 13, 2004, the District submitted payment to the vendor for the District's pre-discounted amount.

11. On August 13, 2004, the FCC released the "Fifth Report and Order" to clarify and modify previously released Orders. One of the changes instituted in this report, that has implications on this appeal, was the clarification on the actions the FCC would undertake when the District failed to pay the required non-discounted amounts. Specifically, Paragraph 24 entitled "Failure to Pay Non-Disclosed Shares," stated:

We conclude that all funds dispersed should be recovered for any funding requests in which the beneficiary failed to pay its non-disclosed share. While our rules do not set forth a specific time frame for determining when a beneficiary has failed to pay its non-discounted share, we conclude that a reasonable time frame is 90 days after delivery of service.

In addition, Paragraph 24 further states:

Accordingly, we clarify prospectively that a failure to pay more than 90 days after completion of service (which is roughly equivalent to 3 monthly billing cycles), presumptively violates our rules that the beneficiary must pay its share.

12. On October 10, 2005, the USAC sent a demand payment letter to the District seeking to recover funds for Application Number 172053 in the amount of \$268,667.65. The District was required to submit payment on or before November 10, 2005. In this letter, the District was granted a 60-day time period to appeal the USAC's decision. (See Exhibit B)

13. On October 31, 2005, the District's representative, James B. Wright, filed an appeal to the USAC's demand letter dated October 10, 2005, and attached an invoice from the vendor and a copy of the check that was paid to the vendor. The grounds for the appeal were that the District was not provided an invoice by the vendor until July 11, 2003. Thereafter, the District tendered payment on August 13, 2004. In addition, Mr. Wright contended that the payment was evidence that the District paid its required portion of Application Number 172053 once the correct invoice was received and that the District intended to settle the account with the vendor. (See Exhibit C)

14. On December 28, 2005, the USAC denied the District's October 31, 2005 appeal. USAC denied the District's appeal on the following grounds:

a. The District failed to provide proper documentation during the audit to demonstrate that the total non-discounted portion for services required to be paid by the District were actually paid. USAC stated that the Rules of Support Mechanism does not permit SLD to accept new information on appeal, except where an applicant was not given an opportunity to provide information during the course of the audit review or when an error was made by SLD.

b. The District had not paid the full non-discounted portion for the products and services to the service provider more than 90 days after the completion of the service, and the District could not demonstrate that SLD's determination was incorrect.

c. The District failed to pay the entire non-discounted portion of the cost for services, and the FCC Form 471 application signed by the District certified that the District would pay the non-discounted portion of the goods and services to the service providers. In addition, the FCC's Fifth Report and Order requires the recovery of all funds dispersed when the beneficiaries failed to pay its non-discounted portion more than 90 days after completion of the service. (See Exhibit D)

15. The District paid the total amount of recovery of \$268,667.65 on February 15, 2006. (See Exhibit E)

IV. DISCUSSION

16. The first ground that USAC sets forth in its December 28, 2005 letter denying the District's appeal states, in essence, that the District's appeal was denied because the entire application was not paid, and therefore, SLD could correctly seek to recover the total amount from the applicant. It appears that USAC did not take into account the District's inability to tender payment to the vendor without a correct final invoice. In South Carolina, school districts are public entities and are required to follow strict procedures regarding disbursement of public funds. In this instance, due to the vendor's inability to provide a correct bill, the District could not submit payment without exposing the District to potential liability under South Carolina law. USAC has opted not to acknowledge that the District had an obligation to expend the public funds in accordance with District policies and State regulations. In essence, USAC sanctioned the District for following State mandated procedures.

17. Secondly, Paragraph 24 of the Fifth Report and Order entitled "Failure to Pay Non-Discounted Share" states:

While our rules do not set forth a specific time frame for determining when a beneficiary has failed to pay its non-discounted share, we conclude that a reasonable time frame is 90 days after delivery of service.

This Paragraph further states:

Accordingly, we clarify **prospectively that a failure to pay more than 90 days after completion of service, which is roughly equivalent to 3 monthly billing cycles, presumptively violates our rules that the beneficiary must pay its time share.** (Emphasis added)

The plain meaning of this Order, released August 13, 2004, clearly states that prior to this date USAC did not have a required time frame for the District to pay the non-discounted amount. It was not until the release of this Order on August 13, 2004, that a "90-day time period" was adopted by USAC. Further, this Paragraph clearly states that the "90-day time period" was to be applied prospectively. Thus, USAC's reliance on the "90-day" time limit in this case is contrary to the Order.

18. The application of Paragraph 24 of the FCC's Fifth Report and Order, to investigations occurring before the Order, violates the "Contract Clause" of the United States Constitution. This Clause states, in pertinent part, "No State shall pass any law impairing the obligation of contracts". The obligation of a contract is the law which binds the parties to perform their agreement and any impairment of the obligation of a contract is prohibited by the Constitution. The Fifth Amendment due process clause provides essentially the same restraint against federal impairment of the obligation of contracts.

In this instance, the District entered into contracts with USAC and the vendor, IKON, during the funding year July 1, 2000-June 30, 2001. The FCC's Fifth Report and Order was adopted August 4, 2004 and released August 13, 2004, a full 3 years after the contracts were entered into with USAC and IKON. Any application of this Order retrospectively violates the District's rights to perform under the pending contracts.

19. In August of 2002, amidst rumors of wrongdoing in the administration of the District's Information Technology (IT) Program, the Board of Trustee's requested an evaluation of the IT Program's administration. During the evaluation, the District discovered several E-rate documents were improperly executed. This discovery, along with other concerns, resulted in the non-renewal of one person's employment, effective June 30, 2003. During the month of July 2003, the District learned of several actions which did not appear to be consistent with the E-rate program, and on July 18, 2003, the District contacted DOJ and requested an investigation. While the District cooperated with the investigation, the administration of the IT Program, including the E-rate payments, did not routinely occur until several months later.

Based on these facts, the District believes that if the FCC determines that an improper disbursement of funds occurred; the District should be granted a waiver due to the malfeasance of one of the District's employees, who was subsequently terminated.

V. CONCLUSION

20. For the foregoing reasons, the District's appeal should be granted, and the District should be reimbursed the \$268,667.65 it paid to resolve the improper disbursement claim.

BOYKIN, DAVIS, HAWKINS & CALDWELL, L.L.C.

By: 

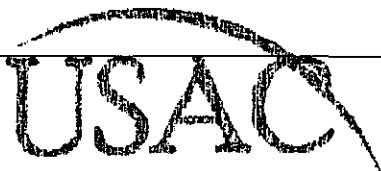
Charles J. Boykin
Darryl C. Caldwell

P. O. Box 11844
Columbia, SC 29211
Telephone: 803-254-0707
Facsimile: 803-254-5609

ATTORNEYS FOR APPELLANT

February ^{25th}, 2006
Columbia, South Carolina

Exhibit A



Universal Service Administrative Company
School & Libraries Division

RECOVERY OF ERRONEOUSLY DISBURSED FUNDS

June 8, 2004

Barry Wright
FAIRFIELD COUNTY SCHOOL DIST
104 OLD CAMDEN ROAD
WINNSBORO, SC 29180

Re:

Funding Year: 2000 -2001

Form 471 Application Number: 172053

Dear Applicant:

Reviews of Schools and Libraries Program disbursements occasionally reveal that funds were disbursed in error. Such discoveries may arise out of our periodic audits, attempts by applicants to reduce a funding commitment below the amount already disbursed, or other investigations resulting from our program compliance procedures. For example, funds may be disbursed in error when:

- Services were billed but were not delivered
- Services were billed in excess of the services delivered
- Services were returned but an appropriate refund to SLD was not made

The SLD has determined that the funds detailed on the attached FUNDING DISBURSEMENT SYNOPSIS were disbursed in error. This synopsis includes the specific funding requests, amounts, and reasons for recovery by Funding Request Number (FRN). The SLD must now recover the amount that was disbursed in error.

FUNDING DISBURSEMENT SYNOPSIS

On the pages following this letter, we have provided a Funding Disbursement Synopsis for the Form 471 application cited above. The enclosed report includes a list of the FRNs from this application for which recovery of erroneously disbursed funds is necessary. Immediately preceding the Funding Disbursement Report, you will find a guide that defines each line of the Report. The SLD is also sending this information to the applicant named above.

TO APPEAL THIS DECISION

If you wish to appeal the decision indicated in this letter, your appeal must be RECEIVED BY THE SCHOOLS AND LIBRARIES DIVISION (SLD) WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Recovery Of Erroneously Disbursed Funds you are appealing. Indicate the funding request number and date of the Disbursed Funds Recovery letter. Your letter of appeal must also include the applicant name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.
3. When explaining your appeal, include the precise language or text that is at the heart of your appeal. By pointing us to the exact words that give rise to your appeal, the SLD will be able to more readily understand and respond appropriately to your appeal. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by calling the Client Service Bureau. We encourage the use of either the e-mail or fax filing options to expedite filing your appeal.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-5 on the first page of your appeal to the FCC. Your appeal must be RECEIVED BY THE FCC WITHIN 60 DAYS OF THE ABOVE DATE ON THIS LETTER. Failure to meet this requirement will result in automatic dismissal of your appeal. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by calling the

Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options because of substantial delays in mail delivery to the FCC. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING DISBURSEMENT SYNOPSIS

Attached to this letter will be a report for each funding request from the application cited at the top of this letter for which a Recovery of Erroneously Disbursed Funds is required. We are providing the following definitions.

- **FUNDING REQUEST NUMBER (FRN):** A Funding Request Number is assigned by the SLD to each request in Block 5 of your Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.
- **SPIN (Service Provider Identification Number):** A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.
- **SERVICE PROVIDER:** The legal name of the service provider.
- **CONTRACT NUMBER:** The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on the Form 471.
- **SERVICES ORDERED:** The type of service ordered from the service provider, as shown on Form 471.
- **SITE IDENTIFIER:** The Entry Number listed on Form 471 for "site specific" FRNs.
- **BILLING ACCOUNT NUMBER:** The account number that was established for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.
- **FUNDING COMMITMENT:** This represents the total amount of requested funding that the SLD committed to this FRN.
- **FUNDS DISBURSED TO DATE:** This represents the total funds that have been paid to you for this FRN.
- **FUNDS TO BE RECOVERED:** This represents the amount of Erroneously Funds Disbursed to Date. These erroneously disbursed funds will have to be recovered.
- **DISBURSED FUNDS RECOVERY EXPLANATION:** This entry provides a description of the reason SLD is seeking the recovery.

Funding Disbursement Synopsis for Application Number: 72053

Funding Request Number 350484 SPIN: 143005429

Service Provider: U.S. Convergion, LLC

Contract Number: NA

Services Ordered: INTERNAL CONNECTIONS

Site Identifier:

Billing Account Number:

Funding Commitment: \$112,709.15

Funds Disbursed to Date: \$208,701.23

Funds to be Recovered: \$110,486.16

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that \$10,486.16 must be recovered from this funding request. During an audit it was noted that one Proliant ML 370 server and one APC Smart UPS 1000 were installed in an ineligible facility, Gordon Early Childhood Center. This school houses both Pre-K and adult education students. Under programmatic rules for this Funding Year 2000, a pre-kindergarten facility in the state of South Carolina was not eligible to receive E-Rate funds. As a result, \$10,486.16 was erroneously disbursed and must be recovered.

Funding Request Number 350737 SPIN: 143005429

Service Provider: U.S. Convergence, LLC

Contract Number: NA

Services Ordered: INTERNAL CONNECTIONS

Site Identifier:

Billing Account Number:

Funding Commitment: \$73,003.12

Funds Disbursed to Date: \$414,568.61

Funds to be Recovered: \$341,565.49

Disbursed Funds Recovery Explanation:

After a thorough investigation, it has been determined that \$341,565.49 must be recovered from this request. During an audit, auditors reviewed documentation and noted that the pre-discount cost of services delivered was \$416,671.67. Since the applicant's discount is 82%, the amount due the service provider was \$341,670.76. The invoice submitted to SLD was processed and paid for the amount of \$414,568.61. Therefore, \$72,897.84 of funds were disbursed in excess of the services delivered. Accordingly, the SLD must recover \$72,897.84 of erroneously disbursed funds. In addition, documentation indicated that the applicant did not pay its total non-discounted portion to the service provider for services received for funding request numbers (FRN) 350484, 350737, and 350967. Based on the service provider bills, the total pre-discount cost for the services delivered was \$680,681.56. Therefore, the applicant was required to pay \$122,522.68 ($\$680,681.56 \times 18\%$). The documentation provided showed that the applicant paid only \$57,597.60. This contribution supports a pre-discounted cost of \$319,986.67 ($\$57,597.60$ divided by 18%) and a service provider payment of \$262,389.07 ($\$319,986.67$ times 82%). The total amount of funds disbursed was \$631,056.72. Since the entire applicant share was not paid, the SLD must seek recovery of the disbursements for which the applicant share was not paid. Consequently, the SLD is seeking recovery of \$368,667.65 ($\$631,056.72 - \$262,389.07$) relating to this finding. This recovery amount is being split between FRNs 350484 and 350967. The SLD is seeking a total recovery of \$341,565.49 ($\$72,897.84 + \$268,667.65$) for this funding request.

Exhibit B



Universal Service Administrative Company
Schools & Libraries Division

Demand Payment Letter

Funding Year 2000: 7/01/2000 - 6/30/2001

October 10, 2005

Barry Wright
FAIRFIELD COUNTY SCHOOL DIST
104 OLD CAMDEN ROAD
WINNSBORO, SC 29180

Re: Form 471 Application Number: 172053
Funding Year: 2000
Applicant's Form Identifier: Network
Billed Entity Number: 127143
FCC Registration Number:
SPIN Name: U.S. Convergence, LLC
Service Provider Contact Person: Bruce Phillips

You were previously sent a Recovery of Erroneously Disbursed Funds Letter informing you of the need to recover funds for the Funding Request Number(s) (FRNs) listed on the Funding Disbursement Report (Report) attached to the Recovery of Erroneously Disbursed Funds Letter. A revised copy of that Report is attached to this letter. Inmediately preceding the Report, you will find a guide that defines each line of the Report.

In the Order on Reconsideration and Fourth Report and Order (FCC 04-181, rel. July 30, 2004) (Fourth Report and Order), the FCC "conclude[d] that recovery actions should be directed to the party or parties that committed the rule or statutory violation in question." The FCC also directed the Universal Service Administrative Company (USAC) to determine to whom recovery should be directed in individual cases. In making such a determination USAC must "consider which party was in a better position to prevent the statutory or rule violation, and which party committed the act or omission that forms the basis for the statutory or rule violation."

Pursuant to the Fourth Report and Order the revised recovery approach applies to all FRNs for which USAC had not yet issued a first Demand Payment Letter as of September 17, 2004 (the effective date of the Order). The purpose of this letter is to:

- Notify you of the exact amount of recovery being directed towards you.
- Give you an opportunity to appeal USAC's determination that recovery should be directed towards you. Please note that the deadline for appealing the decision to seek recovery of improperly disbursed funds is determined by the date of the Recovery of Erroneously Disbursed Funds Letter and not this letter.

• Demand payment of the funds and give you instructions for repaying the funds.

The balance of this debt is due within 30 days from the date of this letter. Failure to pay the debt within 30 days from the date of this letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." Please see the "Informational Notice to All Universal Service Fund Contributors, Beneficiaries, and Service Providers" at www.universalservice.org/new/2004.asp#083104 for more information regarding the consequences of not paying the debt in a timely manner.

If the Schools and Libraries Division (SLD) has determined that both the applicant and the service provider are responsible for a program rule violation, then, pursuant to the Fourth Report and Order, the SLD will seek recovery of the improperly disbursed amount from BOTH parties and will continue to seek recovery until either or both parties have fully paid the debt. If the SLD has determined that both the applicant and the service provider are responsible for a program rule violation, this is indicated in the Disbursed Funds Recovery Explanation in the Report following this letter.

If the SLD is attempting to collect all or part of the debt from both the applicant and the service provider, then you should work with the service provider to determine who will be repaying the debt and to avoid duplicate payment. Please note, however, that the debt is the responsibility of both the applicant and service provider. Therefore, you are responsible for ensuring that the debt is paid in a timely manner.

Please remit payment for the full Funds to be Recovered from Applicant amount shown in the attached Report. To ensure that your payment is properly credited please include a copy of the Report with your check. Make your check payable to the Universal Service Administrative Company (USAC).

If sending payment by U. S. Postal Service or major courier service (e.g. Airborne, Federal Express, and UPS) please send check payments to:

Universal Service Administrative Company
1259 Paysphere Circle
Chicago, IL 60674

If you are located in the Chicago area and use a local messenger rather than a major courier service, please address and deliver the package to:

Universal Service Administrative Company
Lockbox 1259
540 West Madison 4th Floor
Chicago, IL 60661

Local messenger service should deliver to the Lockbox Receiving Window at the above address.

Payment is due within 30 days from the date of this letter.

Complete program information is posted to the SLD section of the USAC web site at www.sl.universalservice.org. You may also contact the SLD Technical Client Service Bureau by e-mail using the "Submit a Question" link on the SLD web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

TO APPEAL THIS DECISION:

If you wish to appeal the decision, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Demand Payment Letter and the FRN(s) you are appealing. Your letter of appeal must include the Billed Entity Name, the Form 471 Application Number, Billed Entity Number, and the FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Demand Payment Letter that is the subject of your appeal to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter specific and brief, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal electronically, please send your appeal to appeals@sl.universalservice.org using your organization's e-mail. If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Appeals Area of the SLD section of the USAC web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic appeals options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC web site, or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

Universal Services Administrative Company
Schools and Libraries Division

cc: Bruce Phillips
U.S. Convergence, LLC

A GUIDE TO THE FUNDING DISBURSEMENT REPORT

Attached to this letter will be a report for each funding request from the application cited at the top of this letter for which a Recovery of Improperly Disbursed Funds is required. We are providing the following definitions.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each individual request in a Form 471 once an application has been processed. This number is used to report to applicants and service providers the status of individual discount funding requests submitted on a Form 471.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support programs.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the applicant and the service provider. This will be present only if a contract number was provided on the Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on the Form 471.

SITE IDENTIFIER: The Entity Number listed on Form 471, Block 5, Item 22a. This number will only be present for "site specific" FRNs.

FUNDING COMMITMENT: This represents the amount of funding that SLD had reserved to reimburse you for the approved discounts for this service for this funding year.

FUNDS DISBURSED TO DATE: This represents the total funds that have been paid to the identified service provider for this FRN as of the date of this letter.

FUNDS TO BE RECOVERED FROM APPLICANT: This represents the amount of improperly disbursed funds to date as a result of rule violation(s) for which the applicant has been determined to be responsible. These improperly disbursed funds will have to be recovered from the applicant.

DISBURSED FUNDS RECOVERY EXPLANATION: This entry provides the reason why recovery is required.

Funding Disbursement Report

Form 471 Application Number: 17205

Funding Request Number: 350737
Services Ordered: INTERNAL CONNECTIONS
SPIN: 143005429
Service Provider Name: U.S. Convergion, LLC
Contract Number: NA
Billing Account Number:
Site Identifier: 127143
Funding Commitment: \$414,568.61
Funds Disbursed to Date: \$414,568.61
Funds to be Recovered from Applicant: \$268,667.65

Disbursed Funds Recovery Explanation:

On 6/8/2004 a letter was sent to the service provider, U.S. Convergion, LLC., advising them of a recovery of funds for this Funding Request Number. Please see the following paragraph for the violation and original decision:

After a thorough investigation, it has been determined that \$341,655.49 must be recovered from this request. During an audit, auditors reviewed documentation and noted that the pre-discounted cost of services delivered was \$416,671.67. Since the applicant's discount is 82%, the amount due the service provider was \$341,670.76. The invoice submitted to SLD was processed and paid the amount of \$414,568.61. Therefore, \$72,897.84 of funds were disbursed in excess of the services delivered. Accordingly, the SLD must recover \$72,897.84 of erroneously disbursed funds. In addition, documentation indicated that the applicant did not pay its total non-discounted portion to the service provider for services received for funding request numbers (FRN 350484, 350737, and 350967). Based on the service provider bills, the total pre-discount cost for the services delivered was \$680,681.56. Therefore, the applicant was required to pay \$122,522.68 ($\$680,681.56 \times 18\%$). The documentation provided showed the applicant paid only \$57,697.60. This contribution supports a pre-discounted cost of \$319,986.67 ($\$57,697.60 \div 18\%$) and a service provider payment of \$262,389.07 ($\$319,986.67 \times 82\%$). The total amount of funds disbursed was \$631,056.72. Since the entire applicant share was not paid, the SLD must seek recovery of the disbursements for which the applicant share was not paid. Consequently, the SLD is seeking recovery of \$368,667.65 ($\$631,056.72 - \$262,389.07$) relating to the finding. This recovery amount is being split between FRNs 350484 and 350967. The SLD is seeking a total recovery of \$341,565.49 ($\$72,897.84 + \$268,667.65$) for this funding request.

FCC rules require applicants to pay the non-discount portion of the products or services purchased with universal service discounts. Applicants that do not pay the non-discount portion more than 90 days after completion of services have violated this rule. Consequently, the program rules have been violated. Since this violation was caused by an act or omission of the applicant, SLD will seek recovery of \$268,667.65 from the applicant.

As noted above \$72,897.84 was disbursed in excess of the actual services delivered. Since this amount was invoiced via Service Provider Invoice Form, the violation was caused by an act or omission of the service provider. Accordingly, SLD will seek recovery of \$72,897.84 from the service provider.

**PLEASE SEND A COPY OF THIS PAGE WITH YOUR
CHECK TO ENSURE TIMELY PROCESSING**

Exhibit C

Fairfield County School District :
P.O. Drawer 622
1226 Highway 321 By-Pass South
Winnsboro, SC 29180
Phone: 803-635-4607

October 31, 2005

Universal Services Administrative Company
Schools and Libraries Division

To Whom It May Concern:

SUBJECT: APPEAL OF DEMAND FOR PAYMENT LETTER FRN 350737

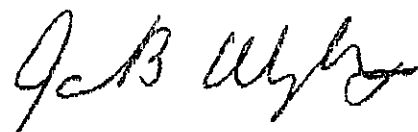
The purpose of this letter is to appeal the decision for the demand for payment. The demand for payment letter is dated October 10, 2005 for FRN 350737. The bill entity Name is Fairfield County School District. The Form 471 application number is 172053 and the Bill Entity number is 127143. There is no referring FCC Registration number on the letter.

The reason for this appeal is evident that Fairfield County School District requested an Invoice from Ikon Office Solutions. Payment to the vendor Ikon Office Solutions is evident in the copy of the canceled check. The invoice represents the portion not paid by Fairfield County School District for Funding year July 1, 2000, to June 30, 2001.

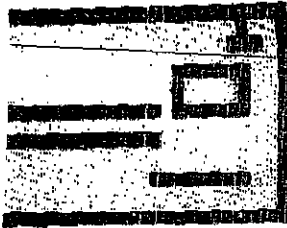
Fairfield County School District hopes this information clearly shows the district intent to settle the account with the vendor.

Sincerely,

Blair Tuner
Deputy Superintendent Of Operations and Finance
Fairfield County School District



James B. Wright
Fairfield County School District



FAIRFIELD COUNTY SCHOOL DISTRICT
1226 U.S. Highway 321 By Post South
PO Drawer 622
WINNSBORO, SOUTH CAROLINA 29180

NO: 135597

CHECK VOID OVER 90 DAYS
CHECK VOID AFTER 90 DAYS

| DATE | PROTECTED AMOUNT | AMOUNT |
|--------------|------------------|-----------|
| AUG 13, 2004 | | 84,925.08 |

PAY \$84,925 DOLLARS AND 08 CENTS

TO THE ORDER OF
IKON OFFICE SOLUTIONS
ATTN: JASON HENSON
70 VALLEY STREAM PKWY
MALVERN, PA 19355

09/02/04 E2292 T2215 P08 0238885839

#135597# 05320148712000 505201# 0006492508#

0532014871

0006492508#

00-022004
00-00-0000-6 FRB CHARLOT
00-02-0000 TRC=2295 PK=05
00-00-0000-4 FRB BALTIMO
ENT-3950 TRC=3730 PK=04

0000000000

0310000114
WACHOVIA 100 90732 20157
PHILA, PA 08312004 8PM

00226005117

ENCLOSURE CHECK HERE
X
For Deposit Only
Ikon Office Solutions
Account # 00000000000000000000
00000000000000000000

Jul 15 2003 1:53PM

No. 6392 P. 2/2



IKON Office Solutions, Inc.
8700 Supercol Parkway
Duluth, GA 30087
1-888-458-4457

Page 1

IKONTS - South Carolina
ATTN: Jason Henson
70 Valley Stream Pkwy
Malvern, PA 19355
(610) 408-7198

Invoice: TS-101111-00
Inv. Date: 07/11/03
Term: Net 30 Days
Order #: 101111-00
PO#: Fairfield County Schools ERATE
Ship Point: **Drop Ship**
Ship Via: Best Way
Contact:
Federal ID: 23-0334400

Information Mgmt (Fairfield Ct
1226 US HWY 321 Bypass
Winnsboro, SC 29180

Ship To: Information Mgmt (Fairfield Ct
Fairfield County Schools
1226 US HWY 321 Bypass
Winnsboro, SC 29180

| Qty | Product Description B.O. | Qty | Unit Price | Disc amt | Net Amount |
|-------|--------------------------|---------|------------|------------|------------|
| Order | | Shipped | | Est. after | |

This amount represents the portion not paid by Fairfield County School District for
Funding Year July 1, 2000, to June 30, 2001.

Sub Total: \$64,925.08
Order Discount: 0.00
Freight: 0.00
Taxes: 0.00
Total Amount Due: \$64,925.08

Information Mgmt (Fairfield Ct Inv#: TS-101111-00
1226 US HWY 321 Bypass Cstm#: 13493
Winnsboro, SC 29180 PO#: Fairfield County Schools ERATE

\$64,925.08

REMIT TO:
IKON OFFICE SOLUTIONS
ATTN: JASON HENSON

SEP 16 2003